

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

AUG 26 2011

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2010-0189
)	DEPARTMENT B
Appellee,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
MARTIN LEON CORRAL,)	the Supreme Court
)	
Appellant.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20081114

Honorable Howard Fell, Judge Pro Tempore

AFFIRMED

Thomas C. Horne, Arizona Attorney General
By Kent E. Cattani and Diane Leigh Hunt

Tucson
Attorneys for Appellee

R. Lamar Couser

Tucson
Attorney for Appellant

K E L L Y, Judge.

¶1 After a jury trial on charges arising from his role in a high-speed chase and collision with law-enforcement patrol cars, appellant Martin Corral was convicted of two counts of aggravated assault with a deadly weapon or dangerous instrument on a peace officer, one count of aggravated driving with an illegal drug or its metabolite in his body while his license was suspended or revoked, one count of criminal damage, and one count of fleeing from a law-enforcement vehicle. The trial court imposed a combination of concurrent and consecutive, enhanced, presumptive prison terms totaling 35.5 years.

¶2 On appeal Corral contends the trial court abused its discretion in “failing to conduct” an evaluation pursuant to Rule 11, Ariz. R. Crim. P., to determine if he was competent to stand trial, despite the fact that such an evaluation had taken place before trial at which Corral had been found competent. According to Corral, “[t]he fact that [he] had been previously evaluated . . . [and] was being medicated at the jail did not obviate the fact that trial counsel was constantly concerned during the trial that [he] was not able to assist in his defense.” We review the court’s refusal of additional competency examinations for an abuse of discretion. *See State v. Berger*, 171 Ariz. 117, 120, 828 P.2d 1258, 1261 (App. 1992).¹

¶3 After a hearing held pursuant to Rule 11 before trial, the trial court found Corral competent to stand trial. Corral’s attorney subsequently moved for another

¹Corral does not challenge the trial court’s original determination that he was competent to stand trial and we therefore do not address that issue. *State v. Moreno-Medrano*, 218 Ariz. 349, ¶ 17, 185 P.3d 135, 140 (App. 2008) (argument waived when not made on appeal).

evaluation, noting in his motion that Corral had been “distracted and unable to focus” and had “stated that he was hearing voices” when he and counsel had met to discuss a plea offer made by the state. Before it ruled on the motion, the court arranged to have Corral evaluated at the county jail “to see if his medication need[ed] adjusting.” The jail medical staff evaluated Corral’s “medication levels and current mental health status,” and the court reviewed Corral’s “medical records and medications,” along with the jail staff’s findings. The court concluded Corral “remain[ed] competent” and there was “no basis upon which to engage in any further evaluations.” Throughout trial, Corral’s counsel continued to express concerns about Corral’s mental health and renewed his motion as to Corral’s competency to stand trial. He also moved for a Rule 11 examination in relation to sentencing.

¶4 To the extent Corral argues on appeal that reasonable grounds for an additional Rule 11 examination existed and the trial court therefore erred in failing to order one, we disagree. “An assertion by counsel that a defendant is displaying peculiar behavior is not sufficient by itself to raise a question of the defendant’s competency.” *Berger*, 171 Ariz. at 120, 828 P.2d at 1261. And counsel essentially reported only the same type of behavior—hearing voices, hallucinations, and paranoia—that had been noted in the previous Rule 11 evaluations. *See State v. Moody*, 208 Ariz. 424, ¶ 48, 94 P.3d 1119, 1138 (2004) (“[I]f a defendant has already been adjudicated competent, the court must be permitted to rely on the record supporting that previous adjudication.”); *State v. Contreras*, 112 Ariz. 358, 360-61, 542 P.2d 17, 19-20 (1975) (“[T]here must be

some reasonable ground to justify another hearing on facts not previously presented to the trial court in order for us to say that the trial judge abused his discretion in not ordering such a hearing . . .”).

¶5 Corral also asserts “[a] previous adjudication that he was competent to stand trial is not a basis to determine whether he could assist in his defense, because different data pertains to the latter issue.” Citing *Indiana v. Edwards*, 554 U.S. 164 (2008), and *State v. Byrd*, 22 Ariz. App. 375, 527 P.2d 777 (1974), Corral argues “the standard for determining competency to stand trial does not necessarily pertain” to determining whether one can “assist in one’s defense.” As the state points out, this argument was not raised below and is therefore forfeited absent fundamental error. See *State v. Henderson*, 210 Ariz. 561, ¶ 19, 115 P.3d 601, 607 (2005).

¶6 We conclude, however, that no error, let alone fundamental error occurred in relation to the “standard” the trial court applied. Rule 11.1 states that “[a] person shall not be tried” if he or she “is unable to understand the proceedings against him or her or to assist in his or her own defense” because of “a mental illness, defect, or disability.” Thus, a conclusion that the defendant is able to aid in his own defense is inherent in a trial court’s determination that he or she is competent to stand trial. The cases upon which Corral relies, which relate to competence to plead guilty or to represent one’s self at trial, are inapposite here. And so, as Corral essentially concedes in his reply, the court was not required to hold an additional hearing in the absence of reasonable grounds to do

so. *See Contreras*, 112 Ariz. at 360-61, 542 P.2d at 19-20. As noted above, Corral has not established that such grounds were presented.

¶7 For the foregoing reasons, Corral's convictions and sentences are affirmed.

/s/ Virginia C. Kelly
VIRGINIA C. KELLY, Judge

CONCURRING:

/s/ Garye L. Vásquez
GARYE L. VÁSQUEZ, Presiding Judge

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Judge